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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,921	10/14/2003	Samuel R. Regina	5923-A-3 (CIP A-2)	6379

7590

04/04/2005

C. Robert von Hellens  
CAHILL, VON HELLENS & GLAZER P.L.C.  
Suite 155  
2141 E. Highland Avenue  
Phoenix, AZ 85016

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/684,921	<b>Applicant(s)</b> REGINA, SAMUEL R.	
	<b>Examiner</b> Yvonne M. Horton	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 10 January 2005.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 13-19, 27 and 28 is/are allowed.

6) ☒ Claim(s) 1-5 and 20-22 is/are rejected.

7) ☒ Claim(s) 6-12 and 23-26 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,038,542 to KLINE in view of US Patent #6,393,786 to HUDSON et al. KLINE discloses the use of a vented hollow block (10) including a pair of member (12,14) having continuous side walls (22,24) wherein the side walls (22,24) of one of the members (12,14) includes a lip (26) and the side walls (22,24) of the other member (12,14) includes a shelf (28) such that the lip (26) and the shelf (28) mate to form a junction. The block of KLINE further includes a vent (78) extending through one of the side walls (22,24). KLINE discloses the basic claimed glass block except for the use of a sheet for reflecting solar radiation. HUDSON et al. teaches that it is known in the art to provide a glass block (30) with an injected layer(38) which after curing forms a sheet (38) for partly reflecting solar radiation, column 3, lines 29-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the glass block of KLINE with the solar radiation sheet of HUDSON et al. in order to improve the life of the glass block by not allowing solar energies to deteriorate the glass block. Regarding claims 2 and 3, KLINE does not explicitly detail the size of his vent holes. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a vent hole size suitable for the use intended as an obvious matter of design choice. For instance, large holes produce less

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retention of liquid within the block whereas smaller holes create more moisture retained within the glass block. Instances that are subject to excessive moisture might require smaller holes. In reference to claims 4 and 5, the glass panel member airs (12,14) are translucent/transparent (i.e. light transmitting), column 3, lines 64-66; column 4, line 68 and column 4, line 1.

Claims 20-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,038,542 to KLINE in view of US Patent #6,393,786 to HUDSON et al.

KLINE discloses the use of a vented hollow block (10) including a pair of member (12,14) having continuous side walls (22,24) wherein the side walls (22,24) of one of the members (12,14) includes a lip (26) and the side walls (22,24) of the other member (12,14) includes a shelf (28) such that the lip (26) and the shelf (28) mate to form a junction. The block of KLINE further includes a vent (78) extending through one of the side walls (22,24) and being in communication with the glass block interior, column 7, lines 30-32. KLINE discloses the basic claimed glass block except for the use of a sheet for reflecting solar radiation. HUDSON et al. teaches that it is known in the art to provide a glass block (30) with an injected layer (38) which after curing forms a sheet (38) for partly reflecting solar radiation, column 3, lines 29-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the glass block of KLINE with the solar radiation sheet of HUDSON et al. in order to improve the life of the glass block by not allowing solar energies to deteriorate the glass block. Regarding claims 21 and 22, KLINE does not explicitly detail the size of his vent holes. However, it would have been obvious to one having ordinary skill in

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the art at the time the invention was made to select a vent hole size suitable for the use intended as an obvious matter of design choice. For instance, large holes produce less retention of liquid within the block whereas smaller holes create more moisture retained within the glass block. Instances that are subject to excessive moisture might require smaller holes.

***Allowable Subject Matter***

Claims 6-12 and 23-26 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-19 stand allowed.

Claims 27 and 28 are allowed.

***Response to Arguments***

Applicant's arguments filed 1/10/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the sheet material being a free-standing element that requires no supporting media to perform its function) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. The applicant has directed the examiner to a page of his specification to provide support for the sheet being free-standing; however, the examiner was not able to find any such reference.

In regards to the applicant's arguments, the functional recitation that the sheet material of HUDSON is not a free-standing such that no supporting media is required in order to perform its function, has not been given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

In response to applicant's argument that the purpose of the HUDSON gel is that of providing fire resistance; whereas, the purpose of the claimed invention is that of reducing solar radiation through the plastic block, column 3, lines 32-35 of HUDSON clearly details that the gel (34) is used in the glass block (30) for fear of damage caused by solar heating, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YMH  
Art Unit 3635  
3/23/05



Robert Canfield  
Primary Examiner